

August 4, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0000349**

GAIL SCHMIEDER
Code Enforcement Appeal

Location: 15723 – 203rd Avenue Southeast

Appellant: **Gail Schmieder**
15723 – 203rd Avenue Southeast
Renton, Washington 98059
Telephone: (425) 271-2999

King County: Department of Development and Environmental Services,
represented by **Holly Sawin**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-6772
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal; extend dates of compliance
Department's Final Recommendation:	Deny appeal; extend dates of compliance
Examiner's Decision:	Deny appeal; extend dates of compliance

EXAMINER PROCEEDINGS:

Hearing Opened:	July 21, 2005
Hearing Closed:	July 21, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On May 16, 2005, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Timothy A. Schmieder¹ that alleges a code violation at property located at 15723 – 203rd Avenue Southeast in the unincorporated Renton area. The Notice and Order cites violation by:

“A. Construction of a deck greater than 30 inches in height above grade without the required permit, inspections and approvals in violation of Section 16.02.240 of the King County Code and Sections 105.1 and 113.1 of the 2003 International Building Code.”

The Notice and Order required that a complete application for the required permit be submitted by July 18, 2005, and the necessary inspections and approvals obtained, or alternatively the non-permitted construction be demolished and removed from the premises by such date.

2. The deck construction at issue is the expansion of a deck previously constructed. It is the addition portion which is the subject of the notice of violation.
3. Appellant Schmieder, owner of the property, filed a timely appeal of the Notice and Order. The appeal does not dispute the fundamental violation charge by the Notice and Order, but notes that the structural work was performed ten years ago and that five years ago the Appellant sent correspondence to DDES requesting communication from DDES regarding the deck, and got no response until this year. The Appellant also asserts that the matter arose from a neighbor's complaint, which neighbor has since relocated. At hearing, the Appellant indicated a desire to approach the matter cooperatively and resolve it by obtaining the necessary permit and approvals.
4. The evidence in the record supports a finding that the charge of violation in the Notice and Order is correct, which is also reflected by the Appeal's lack of fundamental defense.

CONCLUSIONS:

1. The charge of violation alleged by the Notice and Order is correct and is sustained. Given the time taken up by the appeal process, the compliance schedule set forth in the Notice and Order must be revised, and the Examiner shall accede to DDES's recommendation of a 60-day period for engaging in a pre-application conference with DDES and submittal of a completed application within 30 days after the pre-application conference, as well as diligent response to any further information requests from DDES necessary to approve the permit.

DECISION:

The appeal of the Notice and Order is **DENIED**, except that the deadlines for regulatory compliance are revised and extended as stated in the following order.

¹ Deceased. Gail Schmieder is his surviving spouse and filed the appeal.

ORDER:

1. The Appellant and/or a representative shall attend a pre-application conference with the Department of Development and Environmental Services (DDES) by *no later than* **October 3, 2005**.
2. The Appellant and/or a representative shall submit a complete application for a building permit for the deck as constructed (Already Built Construction (“ABC”)) by *no later than* **thirty (30) days after the preapplication conference**. Any and all deadlines for DDES-requested information necessary to process the permit and attainment of the permit shall be complied with.
3. The Appellant and/or a representative shall diligently request necessary inspections and permit final approval from DDES.
4. Alternatively, a demolition permit may be obtained as necessary and the non-permitted deck construction removed and demolished, with all demolition debris removed from the premises, by *no later than* **November 3, 2005**.
5. No penalties shall be assessed against the Appellant or the property if the above conditions are met. If any of the deadlines stated in the above conditions is not met, DDES may assess penalties against the Appellant and the property retroactive to the date of this order.

ORDERED this 4th day of August, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 4th day of August 2005, via certified mail to the following:

Gail Schmieder
15723 – 203rd Avenue Southeast
Renton, Washington 98059

TRANSMITTED this 4th day of August 2005, to the following parties and interested persons of record:

Gail Schmieder
15723 - 203rd Ave. SE
Renton WA 98059

Suzanne Chan
DDES, Code Enf.
MS OAK-DE-0100

Elizabeth Deraitus
DDES/LUSD
MS OAK-DE-0100

Trudy Hintz
DDES/LUSD
MS OAK-DE-0100

Patricia Malone
DDES/LUSD
MS OAK-DE-0100

Lamar Reed
DDES/LUSD
MS-OAK-DE-0100

Holly Sawin
DDES/LUSD
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE JULY 21, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0000349.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing was Holly Sawin, representing the Department; and the Appellant, Gail Schmieder.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | DDES staff report for 7/21/05 |
| Exhibit No. 2 | Copy of Notice and Order issued 5/16/05 |
| Exhibit No. 3 | Copy of Notice and Statement of Appeal received 5/31/05 |
| Exhibit No. 4 | Copies of codes cited in the Notice and Order |
| Exhibit No. 5 | Photograph (color copy) of subject property taken on 6/13/01 |

PTD :gao
E0000349 RPT